

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**MICHAEL GREGORY *and*
FRAN GREGORY**

PLAINTIFFS

v.

CIVIL ACTION NO. 1:23-cv-239-TBM-BWR

**PINNACLE CLIMATE
TECHNOLOGIES, INC. *d/b/a*
MASTER INDUSTRIAL PRODUCTS;
CAVAGNA NORTH AMERICA, INC.;
AMERIGAS PROPANE, L.P.;
TRACTOR SUPPLY CO.; *and*
WORTHINGTON ENTERPRISES, INC.**

DEFENDANTS

ORDER

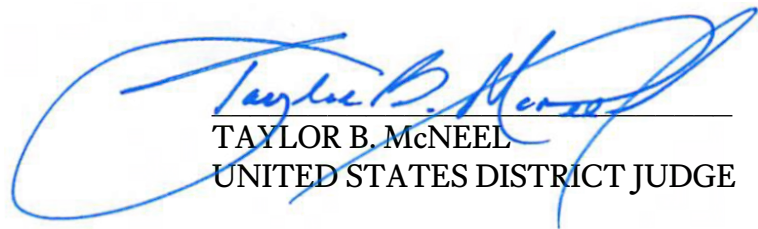
This matter came before the Court on Defendant AmeriGas Propane, L.P.’s Motion for Dismissal of It and Judgment in Its Favor [29] filed on September 27, 2024, in response to the Plaintiffs’ Third Amended Complaint [21] filed on July 8, 2024. Pursuant to the Plaintiffs’ Fourth Amended Complaint [74] filed on April 4, 2025, the Court denies as moot Defendant AmeriGas Propane, L.P.’s Motion for Dismissal [29].

Although the Fourth Amended Complaint [74] “re-allege[s] and adopt[s] each of the allegations set forth in the Original and Amended Complaints” against Defendant Tractor Supply Co., it does not refer to, adopt, or incorporate by reference the allegations made in previous Complaints against Defendant AmeriGas Propane, L.P. [74], p. 21; *see King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994) (“An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.”). The Fourth Amended Complaint [74] therefore supersedes the

Third Amended Complaint [21] as to Defendant AmeriGas Propane, L.P. Accordingly, AmeriGas Propane, L.P.’s Motion to Dismiss [29] the Third Amended Complaint [21] is moot. *See New Orleans Association of Cemetery Tour Guides and Companies v. New Orleans Archdiocesan Cemeteries*, 56 F.4th 1026, 1034 (5th Cir. 2023) (“Because the first amended complaint is nullified, we cannot consider—and thus must dismiss—an appeal . . . stemming from said complaint.”).

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant AmeriGas Propane, L.P.’s Motion for Dismissal of It and Judgment in Its Favor [29] is MOOT.

This, the 16th day of April, 2025.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE